

Managing Environmental Compliance in Connecticut



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Commissioner

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Issue 4

Long Island Sound Benefits from Nitrogen Credit Exchange

Hypoxia (or low dissolved oxygen) is the primary water quality problem facing Long Island Sound (LIS). Hypoxic conditions impair the feeding, growth and reproduction of aquatic life and have been detected in the bottom waters of the western Sound every summer since water monitoring began in 1985. Nitrogen is the pollutant most responsible for this condition. To address this problem, Connecticut and New York have embarked on an aggressive program to reduce nitrogen going into LIS from one of its primary sources, sewage treatment plants (STPs). The Nitrogen Credit Exchange Program is an innovative and cost effective management program that has found favor with advocates for the Sound, including state lawmakers, regulators, and municipal officials.

In 2001, the Connecticut General Assembly passed legislation establishing the first Nitrogen Credit Exchange Program of its kind in the nation. The law authorized the Department to issue a Nitrogen General Permit and establish a Nitrogen Credit Advisory Board (NCAB) to oversee the program. The twelve-member NCAB was convened in November 2001 and began setting up the administrative and functional aspects of the program. The Department issued the Nitrogen General Permit in January 2002, establishing 2002 as the first year of nitrogen "trading". The trading program works as follows: each of the seventy-nine STPs covered under the general permit is given an annual nitrogen permit limit. Monitoring determines whether each plant is discharging more or less than its allocation of nitrogen. If a STP exceeds its limit, the facility owner/operator is required to purchase the appropriate amount of nitrogen credits to bring it into compliance. Facilities discharging less than their allocation of nitrogen

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Axe Falls on Timber Thieves

On September 24th in Litchfield Superior Court, Cathy Morsey was sentenced to ten years in prison, suspended after five years served with five years probation, for her part in the theft of \$267,000 in timber from seven different Connecticut landowners. Earlier this year Lee Morsey, Cathy Morsey's husband, paid \$70,000 in restitution to the victims and received a five year suspended sentence. The sentencing of Cathy Morsey concluded the Connecticut Chief State's Attorney's Office three-year investigation that was conducted with technical assistance from foresters representing the Department's Division of Forestry.

The Morsey's history of harmful environmental conduct extends back at least to the early 1990's when the Department sued Lee and Cathy Morsey and their company L & S Construction for illegally disposing of more than 50,000 cubic yards of solid waste in western Connecticut. The court ordered the Morsey's to clean up the five effected sites and to pay more than one million dollars in civil penalties. More recently in 1996, the Morsey's engaged in logging operations in the Town of Canton that caused significant environmental harm. Their egregious acts in Canton and their history of solid waste violations caused the Department to deny the Morsey's applications for certification as Forest Practitioners in 1997.

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Timber Thieves *(continued from page 1)*

Despite the denial of certification, Lee and Cathy Morsey continued to harvest timber under a third person's certification. While investigating a series of complaints against the Morsey's from 1996 through 1999, Department foresters suspected gross inconsistencies between the actual volume of timber being harvested and the volumes the Morsey's were reporting to landowners. Because landowners were being paid by the board foot, Department foresters suspected that the Morsey's were significantly underpaying landowners for the timber being harvested on their property. In 2000, Department foresters received the break they were looking for. Reacting to a landowner complaint about payments from the Morsey's, Department foresters measured every tree stump and estimated the harvested timber volume. The measurements confirmed that the Morsey's had harvested four times more timber volume than they had reported to the landowner. The additional timber the Morsey's had taken amounted to a \$25,000 loss for the landowner.



For more information on the Department's Division of Forestry, visit our web site at <http://www.dep.state.ct.us/burnatr/forestry/>.

Department to Increase Fines for Non-compliant USTs

Current standards require that underground storage tank systems ("USTs") and all associated piping be constructed of fiberglass-reinforced plastic or, if made of steel components, protected from corrosion by a special coating and cathodic protection. December 22, 1998 marked the effective date for compliance with a federal deadline that mandated the closure or upgrade of unprotected steel non-residential USTs to meet these standards. In addition, Connecticut passed new legislation, effective October 1, 2003, that requires all newly installed USTs to be of double walled construction to provide another level of protection from leaks. To read the public act go to <http://www.cga.state.ct.us/2003/act/Pa/2003PA-00218-R00HB-06402-PA.htm> and scroll to section 12.

Since the 1998 deadline for removal or upgrade of unprotected steel tanks, the DEP has issued over 300 enforcement orders to owners and operators of USTs in violation of that deadline. In most cases, the enforcement action required removal and proper closure of non-compliant USTs and included limited penalties of up to \$3,500 to serve as an incentive to comply with new tank standards. For more information on procedures for UST closure and new tank standards go to <http://www.dep.state.ct.us/wst/ust/indexust.htm>.

Now nearly five years after the effective date of the federal regulations, the DEP plans to significantly increase penalties assessed for non-compliance with 1998 tank standards, the actual penalty to be based on the number of non-compliant tanks and their volumetric capacity.

Connecticut, New York & New Jersey Citizens Winners in Power Plant Decision

On August 8, 2003, a federal district court judge in Ohio found that the Ohio Edison Company, a subsidiary of FirstEnergy Corporation of Akron, Ohio, had violated the Clean Air Act by making unpermitted modifications to its plant without also installing required air pollution control equipment. The ruling is the result of a coordinated effort between the States of Connecticut, New York, New Jersey and EPA.

Despite the implementation of increasingly more stringent local regulations, northeast states have struggled in recent years to attain federal health standards for ozone and other air pollutants due to sources located out of the region. For example, large western power plants emit pollutants that are transported eastward by prevailing winds. In high concentrations, several pollutants typically found in power plant emissions can pose respiratory and cardiovascular health risks. Sulfur dioxide (SO₂) emissions result in acid rain, regional haze and elevated levels of fine particulate matter. Nitrogen oxides (NO_x) are a precursor for ground-level ozone (or smog) and also contribute to acid deposition. By failing to comply with EPA requirements to install state of the art pollution control equipment as they upgraded the plants over the years, Ohio Edison illegally emitted tons of these pollutants that impacted citizens in states hundreds of miles downwind.

The W.H. Sammis Station in Ohio, the subject of the Ohio Edison decision, emitted over 150,700 tons of SO₂ and 58,600 tons of NO_x in 1999. In comparison, the six large power plants in Connecticut combined emitted about 41,300 tons of SO₂ and 11,900 tons of NO_x in the same year. The expected emissions reductions resulting from the Ohio Edison decision could be up to three times higher than actual emissions from all of Connecticut's large power plants. These reductions, coupled with pollution reductions resulting from other legal actions against out-of-state power companies, will reap substantial air quality benefit for all citizens living downwind from the facilities.

The actual injunctive relief and civil penalties will be determined at the remedy phase trial that is scheduled to begin in March 2004. To read the entire decision go to http://www.ohsd.uscourts.gov/opinions/c_2_99_1181_3.pdf.

Training on Connecticut Guidelines for Soil Erosion and Sediment Control

The Connecticut Department of Environmental Protection is sponsoring a two day comprehensive course on erosion and sediment control (E & S). The course is intended for E & S Plan Designers, Reviewers and Inspectors.

The course will provide: (1) A review of the 2002 Connecticut E & S Guidelines including E & S plan development, construction phasing and sequencing, and E & S measure selection and review; (2) an applied learning experience involving hands-on review of several E & S plans; and (3) information on an optional review session for attendees interested in taking the examination for Certified Professional in Erosion and Sediment Control (CPESC).

Dates	Location
December 3 and 10	UConn-Avery Point/Groton

The courses will be from 8:00 am to 4:00 pm at the locations shown. The cost is \$90 for public sector employees and \$130 for non-public sector employees. The fee includes morning refreshments, lunch, parking and supplemental handout materials. Participants are required to bring a copy of the 2002 CT E & S Guidelines to each class. For more information and to register, go to <http://continuingstudies.uconn.edu/professional/soilanderosion.html>.

LIS Nitrogen Credit Exchange *(continued from page 1)*

generate credits to sell. Cost of "credits" (pounds of nitrogen reaching western LIS) is based on aggregate STP nitrogen removal costs during the year (construction and operation and maintenance considered) set as a price per pound of nitrogen. The \$1.65 credit price for 2002 was set by the NCAB based on nitrogen removal costs at twenty-four STPs that had instituted nitrogen removal projects prior to 2002.

The first year's program was overwhelmingly successful in reducing nitrogen loads to Long Island Sound. Forty-one of the seventy-nine participating STPs reduced nitrogen outputs to below their assigned permit limits, making them eligible to sell a total of \$2.76 million worth of nitrogen credits. The remaining thirty-eight plants exceeded their allocated nitrogen discharges, requiring them to purchase \$1.32 million worth of credits. The State purchased the excess credits generated from the towns with approximately \$1.44 million from the Clean Water Fund.

A number of factors contributed to the margin of success in 2002. A mild winter and above average summer/fall temperatures enhanced biological nitrogen removal activity of bacteria at the plants. Below normal precipitation kept water infiltration into sewer systems low, thus increasing the capacity of STPs to remove nitrogen. Twenty-four of the thirty-four STPs committed to implement biological nitrogen removal retrofits or full-scale denitrification projects had completed construction prior to 2002. Consequently, Connecticut is well on its way to the 2014 goal of reducing the STP nitrogen load to LIS by 64%.

For a recent report on the status and trends in the health of the Long Island Sound, go to the web at <http://www.longislandsoundstudy.net/pubs/reports/soundhealth2003.htm>. To learn more about the Nitrogen Credit Exchange program, visit the Department's web site at <http://dep.state.ct.us/wtr/lis/nitrocnr/nitoindex.htm> or contact Paul Stacey at paul.stacey@po.state.ct.us.

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Environmental Fees Increase

Effective August 21, 2003, most environmental permit and annual fees required pursuant to Title 22a of the Connecticut General Statutes, and regulations adopted thereunder, increased in accordance with the newly adopted budget. The permit program fact sheets in the User's Guide to Environmental Permits, available online at: www.dep.state.ct.us/pao/userguid.htm, and the Permit Application Transmittal Form (www.dep.state.ct.us/pao/download.htm#Common) have been updated to reflect these fee increases. We are in the process of updating all of the related application forms and instructions, however the application packages currently available on our website may not reflect the most current fees. In the meantime, if you have any questions regarding applicable fees, please contact the appropriate permit program or call the Permit Assistance Office at 860-424-3003. A list of program contact phone numbers is available at: www.dep.state.ct.us/pao/fee_changes_notice.htm#ProgramPhone.